

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 1:23-cv-23004-WPD

JANE DOE, a minor, by and through her
mother and next friend, MOTHER DOE,

Plaintiff,

v.

ACADEMIR CHARTER SCHOOLS, INC.,
and SUPERIOR CHARTER SCHOOL
SERVICES, INC.,

Defendants.

**DEFENDANT'S UNOPPOSED MOTION TO VACATE ENTRY OF CLERK'S
DEFAULT AGAINST DEFENDANT SUPERIOR CHARTER SCHOOL SERVICES, INC.
AND FOR EXTENSION OF TIME TO PLEAD**

Defendant, SUPERIOR CHARTER SCHOOL SERVICES, INC., through its undersigned counsel, and pursuant to Rule 55(c), Fed.R.Civ.P., hereby files this Unopposed Motion to Vacate the Clerk's Default entered September 6, 2023 and for Extension of Time to Plead, and states as follows:

1. Defendant seeks to vacate the Clerk's entry of default entered September 6, 2023.
2. In support of this Motion, Defendant would state that its counsel, Scott P. Yount, contacted Plaintiff's counsel prior to the due date of the response to the Complaint, and Plaintiff's counsel then agreed to a 14-day extension of time via email, making the responsive pleading due on September 19, 2023. *See Exhibit A.*
3. The Eleventh Circuit Court of Appeals explicitly recognizes the standard to vacate a

default is less stringent than the standard to vacate a default judgment. “Good cause is a lenient standard, though not devoid of substance. Relevant factors include: (1) whether the default was willful; (2) whether vacating the default would prejudice the plaintiff; (3) whether the defendant presents a meritorious defense; and (4) whether the defendant acted promptly to vacate the default.” *Compania Interamericana Exp. Imp., S.A. v. Compania Dominicana de Aviación*, 88 F.3d 948 (11th Cir. 1996).

4. Upon learning of the Clerk’s default, the Defendant’s counsel immediately contacted the Plaintiff’s counsel and sought his agreement on lifting the default. After clarification of the extension and other issues, the Plaintiff’s counsel agreed to the unopposed motion to vacate and extension of time to plead.

5. Based on the foregoing, the undersigned would state that good cause has been shown. There was no willful disregard of the Court proceedings, nor prejudice to Plaintiff. Furthermore, there was no delay in presenting this Motion in that it was presented one day after the Clerk’s default was entered and on the same day Defendant became aware of the existence of the default.

6. Thus, allowing Defendant to defend this case on the merits after such a short delay is warranted.

7. Defendant further requests that this Court formally extend the time within which it can file a responsive pleading through September 19, 2023, based on the agreement of plaintiff’s counsel.

WHEREFORE, Defendant, SUPERIOR CHARTER SCHOOL SERVICES, INC., respectfully requests that this Unopposed Motion to Vacate Entry of Clerk’s Default be granted and an extension of time to file a responsive pleading be granted until Tuesday, September 19, 2023, in accordance with the agreement Plaintiff’s counsel.

CERTIFICATE OF CONFERENCE

I HEREBY CERTIFY that I accordance with LR 7.1(a)(3) that I conferred with all parties affected by the relief set forth in the motion, and all parties agree to the granting of the motion.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 7, 2023, a true and correct copy of the foregoing was electronically filed with the Clerk of Court via the CM/ECF which will serve the parties by email on the service list below.

s/ Scott P. Yount

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